

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

MISSISSIPPI FARM BUREAU INSURANCE
COMPANY, DAVID AND SHARON MENSI

PLAINTIFFS

v.

CIVIL ACTION NO. 3:05CV69-B-A

TPI CORPORATION

DEFENDANT

REPORT AND RECOMMENDATION

On April 26, 2006, the court ordered defendant TPI to pay reasonable expenses, including attorney's fees, incurred by plaintiffs in connection with their previous motion to compel [99]. Plaintiffs submitted an itemization of 19.1 hours at \$175.00 per hour, which totals \$3,342.50, as their computation of reasonable fees and expenses [101]. In its objection, defendant did not dispute the number of hours worked or the hourly rate put forth by the plaintiffs; rather, defendant states that, because the subject motion to compel was granted as to four of the fifteen issues presented by the plaintiffs, the court should award expenses only as to that portion of the motion on which relief was granted [109]. The court agrees with the defendant's logic; however, a simple review of the April 26 order demonstrates that plaintiffs moved for relief as to thirteen areas and that the court granted relief for five of these areas.

Accordingly, the court recommends that the defendant pay reasonable expenses in the amount of \$1,286.25, which is the total of 7.35 hours at \$175.00 per hour. The parties are referred to 28 U.S.C. §636(b)(1)(B) and FED. R. CIV. P. 72(b) for the appropriate procedure in the event any party desires to file objections to these findings and recommendations. Objections are required to be in writing and must be filed within ten (10) days of this date and "a party's failure

to file written objections to the proposed findings, conclusions, and recommendation in a magistrate judge's report and recommendation within 10 days after being served with a copy shall bar that party, except upon grounds of plain error, from attacking on appeal the unobjected-to proposed factual findings and legal conclusions accepted by the district court” *Douglass v. United Services Automobile Association* , 79 F.3d 1415, 1428-29 (5th Cir. 1996) (*en banc*) (citations omitted).

Respectfully submitted, this the 30th day of May, 2006.

/s/ S. ALLAN ALEXANDER
UNITED STATES MAGISTRATE JUDGE